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October 5, 2021

VIA E-FILING

Debra Brannan
Deputy Clerk to Judge John M. Younge
United States District Court
Eastern District of Pennsylvania
U.S. Courthouse
Independence Mall West
601 Market Street
Philadelphia, PA 19106

RE: *Theophalis Wilson v. City of Philadelphia, et al.*
Civil Action No. 21-cv-2057-JMY

Dear Ms. Brannan:

We are writing in response to your letter dated September 7, 2021 regarding failure to serve the complaint in this matter on certain defendants within ninety days, as required under Rule 4(m) of the FRCP. You stated that the Court intended to dismiss certain defendants without prejudice if we did not serve those defendants by October 6 or provide good cause for the failure to effect service.

With regard to the Philadelphia Police Department (“PPD”), after discussing this issue with the city attorneys’ office, we understand that departments of the City of Philadelphia do not have a separate corporate existence and are not properly named as parties to a suit. 53 Pa. Stat. § 16527; *Regalbuto v. City of Philadelphia*, 937 F. Supp. 374, 377 (E.D. Pa. 1995) (citing *Philadelphia v. Glim*, 149 Pa. Commw. 491, 613 A.2d 613 (1992)). As the PPD is not a legal entity that can be sued, we intend to dismiss the PPD as a defendant in this matter.

With respect to the remaining individual defendants who have not been served, we recently learned that most, if not all¹, of them are deceased and we are in the process of opening estates for these individuals and/or appointing a personal representative so that they can be properly sued in this matter. We intend to amend our complaint shortly to reflect this.

¹ We are still investigating the status and location of Defendants Kevin Hollingshead and John Grier. The city attorneys’ office previously indicated that it believed these retirees were deceased, but we have found some indication that at least one of them is still alive. In the event they are still alive and can be found, we believe the city should accept service on their behalves. If we determine that they are deceased, we will proceed to open estates for these individuals to be properly sued in this matter.

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We request that the court not dismiss these defendants while we continue our investigation and attempt to serve these individuals and/or their estates if they are deceased.

Very truly yours,

Lathrop GPM LLP



Kimberly Winter
Partner